

**From:** Justin Deri  
**To:** Microsoft ATR  
**Date:** 1/23/02 3:39pm  
**Subject:** Microsoft Settlement

To Whom It May Concern,

As a software developer and therefore a frequent computer user, I'm very concerned about the DOJ's Proposed Final Judgment (PFJ) with regards to the Microsoft Settlement. Although there are many other issues, I've outlined my highest priorities below:

- The PFJ does not require Microsoft to release documentation about the format of Microsoft Office documents. No part of the PFJ obligates Microsoft to release any information about file formats, even though undocumented Microsoft file formats form part of the Applications Barrier to Entry (see "Findings of Fact" ¶20 and ¶ 39).

- Microsoft currently uses restrictive licensing terms to keep Open Source apps from running on Windows. Many Windows APIs, including Media Encoder, are shipped by Microsoft as add-on SDKs with associated redistributable components. Applications that wish to use them must include the add-ons, even though they might later become a standard part of Windows. Microsoft often provides those SDKs under End User License Agreements (EULAs) prohibiting their use with Open Source applications. This harms ISVs who choose to distribute their applications under Open Source licenses; they must hope that the enduser has a sufficiently up-to-date version of the add-on API installed, which is often not the case.

- Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing operating systems. The Microsoft Platform SDK, together with Microsoft Visual C++, is the primary toolkit used by ISVs to create Windows-compatible applications. The Microsoft Platform SDK EULA says: "Distribution Terms. You may reproduce and distribute ... the Redistributable Components... provided that (a) you distribute the Redistributable Components only in conjunction with and as a part of your Application solely for use with a Microsoft Operating System Product..." This makes it illegal to run many programs built with Visual C++ on Windows-compatible competing operating systems.

- Microsoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating systems. As the 1996 Caldera v. Microsoft antitrust lawsuit demonstrates, it is a valid concern that as competing operating systems emerge which are able to run Windows applications, Microsoft might try to sabotage Windows applications, middleware, and development tools so that they cannot run on non-Microsoft operating

systems, just as they did earlier with Windows 3.1.

- Section III.A.2. allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

- The PFJ as currently written appears to lack an effective enforcement mechanism.

Sincerely,

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